

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

7005 JUN -9 CIVIL NO. 04-10835-MEL

DAVID M. GOLDEN, ET ALS,
Plaintiffs

VS.

COUNTY OF SUFFOLK,
Defendant

MEMORANDUM OF LAW IN SUPPORT OF

1. CONSOLIDATED PLAINTIFF

2. MICHAEL J. DWYER'S

3. MOTION TO AMEND COMPLAINT

4. PURSUANT TO

5. FED.R. CIV. P. RULE 15

Consolidated plaintiff Michael J. Dwyer only seeks leave to amend his complaint to accurately reflect the date of his alleged incident (as recently disclosed in discovery in official reports generated by te defendant County of Suffolk) as being January 14, 2003, and not January 17, 2003 as alleged in original plaintiff's complaint. FED. R. Civ. P. Ct. Rule 15(A) states in pertinent part that:

"(Otherwise) a party may amend his pleadings only by leave of court...., and leave shall be freely given when justice so requires.". (emphasis mine.)

The case law construing federal Rule 15 clearly shows that the legislative intent behind said Rule 15 is that amendments to complaints should be liberally allowed by the Courts.


"Rule 15 favors the allowance of amendments to pleadings, and motions to amend should be allowed unless some good reason appears for denying it." Castellucci v .U.S. Fidelity And Guaranty Co., 372 Mass. 288, 361 N.E.2D 1264 (1977). "This rule continues the practice in effect prior to its adoption, in which liberality in amendment was encouraged and favored, where no prejudice or disadvantage was suffered by the opposing side." McDowell v. Orr Felt and Blanket Co., 146 F2D 136 (1944). "The mandate that leave to

amend be freely given is to be heeded. Ruluff v. Arabian American Oil Co., 421 F2d 240 (1979).

Accordingly, justice requires that the amended pleading be allowed.

The plaintiff,

By his Attorney,


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